control of a patient for private gain does so with a view of furnishing promptly modern equipment, facilities and treatment, and the duties which it owes to a patient are commensurate with the responsibilities assumed. Thus, a hospital, assuming control over a person suffering from mental disorders, is liable for his death from poisoning, where such patient had access to a room in which poisons were kept. *Broz* v. *Omaha, etc., Hospital Ass'n*, 96 Neb. 648, 148 N. W. 575, L. R. A. 1915D, 334. Likewise, on the same principle, where a hospital allowed a demented patient to escape from his room and make assaults on another patient, it was held liable because of its breach of duty. *University of Louisville* v. *Hammock*, 127 Ky. 564, 106 S. W. 219, 14 L. R. A. (N. S.) 784. *A fortiori*, there is a breach of duty when assaults are made upon a patient by a stranger at the instance of one of the keepers of a sanitarium. *Galesburg Sanitarium* v. *Jacabson*, 103 Ill. App. 26.

LANDLORD AND TENANT—LESSOR'S LIABILITY TO THIRD PERSONS—DANGEROUS PREMISES.—The defendant leased a lake to a certain lessee, which lake the lessee purposed to use as a public bathing resort. The lessee agreed that he would make the necessary improvements to render the lake fit and safe for such a purpose. As a result of the negligent failure of the lessee to provide suitable safety appliances the plaintiff was drowned. An action was brought against the defendant-lessor. *Held*, the defendant is not liable. *Beaman* v. *Grooms* (Tenn.), 197 S. W. 1090.

The general rule governing the liability of a lessor of real property to third persons injured thereby is that, prima facie, the breach of duty and hence the liability is that of the tenant and not that of the landlord. The lessor is not ordinarily responsible for injuries to third persons resulting from the condition of the premises leased; and in order to render him liable more must be shown than that the premises, which were the cause of the injury, were in fact owned by him, though leased to another. *Shindelbeck* v. *Moon*, 32 Ohio St. 264, 30 Am. Rep. 584. See MINOR, REAL PROP., § 394; 1 TAYLOR, LANDLORD AND TENANT, 8 ed., § 175.

But when, at the time of the demise, the premises are in a defective condition or unsafe for the purpose for which they are intended, and third persons are injured in consequence thereof, the courts are not agreed as to the respective liability of the lessor and lessee. The courts hold generally that under such circumstances the lessee is always liable. This is on the theory that by suffering the defect or nuisance to remain, he is, in effect, keeping up and maintaining it just as if he had originally caused it to exist. *Irvine* v. *Wood*, 51 N. Y. 224, 10 Am. Rep. 603; *Mitchell* v. *Brady*, 124 Ky. 411, 99 S. W. 226, 124 Am. St. Rep. 408, 13 L. R. A. (N. S.) 751. As to the liability of the lessor of such defective premises the cases are in almost hopeless conflict—abounding in various qualifications and distinctions—and it is difficult to extract the true doctrine from the multitude of decisions.

It is universally held that the lessor is not liable for injuries due to defective or dangerous premises when the defect or nuisance arose

after the demise, as a result of the tenant's failure to keep the premises in proper repair. In such a case the landlord, being under no legal duty to repair, can be guilty of no negligence and no liability on his part can arise. *Shindelbeck* v. *Moon, supra; City of Boston* v. *Gray*, 144 Mass. 53, 10 N. E. 509. It has been attempted by some courts to draw a distinction between premises that are leased for private purposes and those that are leased for public or quasi-public purposes, and to require greater care and diligence in the repair of premises to be used by the public. *Fox* v. *Buffalo Park*, 21 App. Div. 321, 47 N. Y. Supp. 788; *Sterger* v. *Van Sicklen*, 132 N. Y. 499, 28 Am. St. Rep. 594, 30 N. E. 987. It does not seem, however, that this distinction is well taken as far as the actual requirement of reasonable diligence is concerned, for the requisite due care and diligence in repair necessarily requires greater exertion in the case of public or quasi-public use of the leased premises.

The chief conflict among the authorities turns upon the effect of a covenant or agreement by the lessee to repair and keep in repair premises that are in a defective condition at the time of the demise, and it is upon this point that the decision of the instant case rests. There are two distinct views upon the subject, the English doctrine and the American doctrine. According to the English rule such an agreement by the lessee relieves the lessor of all responsibility, for the duty of repair rests upon the tenant. Since the lessor is under no legal duty to the lessee to put the premises in good condition, no liability can attach to him for injuries to third persons resulting from the defective or dangerous condition of the leased premises. *Pretty* v. *Bickmore*, L. R. 8 C. P. 401; *Gwinnell* v. *Eamer*, L. R. 10 C. P. 658. This doctrine is followed by a few of the American courts. *Leonard* v. *Storer*, 115 Mass. 86, 15 Am. Rep. 76; *Fellows* v. *Gilhuber*, 82 Wis. 639, 52 N. W. 307, 17 L. R. A. 577.

But the majority of the American courts, with probably better reasoning, have repudiated the English rule and have held that the lessor in such cases is liable, regardless of the lessee's agreement to put the premises in a suitable condition. According to this view, which is certainly the more reasonable, a lessor owning dangerous or defective premises cannot escape liability to third persons resulting therefrom by a demise of the premises, even though the lessee covenants to put them in repair. The landlord's liability does not rest upon the contract of lease but upon his negligence in permitting his premises to be in an unsafe condition. *Swords* v. *Edgar*, 59 N. Y. 28, 17 Am. Rep. 295; *Ingwersen* v. *Rankin*, 47 N. J. L. 18, 54 Am. Rep. 109; *Keeler* v. *Lederer Realty Corp.*, 26 R. I. 524, 59 Atl. 855.

It seems therefore, that although the English cases and some American cases support the ruling of the instant case, the weight of authority and of reason is *contra*. On the ground of public policy, the owner of valuable realty should not be allowed to absolve himself from liability to strangers by shifting the duty of repairing upon a financially irresponsible tenant.